

1 Roger G. Perkins, Esq., CSB #86617
Rperkins@mpplaw.com
2 Angela Kim, Esq., CSB #216374
Akim@mpplaw.com
3 MORRIS POLICH & PURDY LLP
501 West Broadway, Suite 500
4 San Diego, California 92101
Telephone: (619) 557-0404
5 Facsimile: (619) 557-0460

6 Robert S. Mallin, Illinois Bar No. 6205051
Rmallin@brinkshofer.com
7 Brinks Hofer Gilson & Lione
NBC Tower, Suite 3600
8 455 North Cityfront Plaza Drive
Chicago, IL 60611-5599
9 Telephone: (312) 321-4221
Facsimile: (312) 321-4299

10 **Attorneys for Defendant Senco Products, Inc.**

11
12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 JENS ERIK SORENSEN, As Trustee of
15 SORENSEN RESEARCH AND
DEVELOPMENT TRUST,

16 Plaintiff,

17 v.

18 SENCO PRODUCTS, INC. an Ohio
19 Corporation; and DOES 1-100

20 Defendants.

CASE NO. 3:08-cv-00071-BTM-CAB

**DECLARATION OF ROBERT S.
MALLIN IN SUPPORT OF MOTION TO
STAY PENDING OUTCOME OF
REEXAMINATION PROCEEDINGS**

Date: May 16, 2008

Time: 11:00 a.m.

Courtroom: 15

Hon. Barry Ted Moskowitz

21
22 **NO ORAL ARGUMENT UNLESS
REQUESTED BY THE COURT**

1 I, Robert S. Mallin, declare:

2 1. I am a member of the bar of the State of Illinois, and I am a partner at the law firm of
3 Brinks Hofer Gilson & Lione, which represents Defendant SENCO PRODUCTS, INC. ("SENCO") in
4 this action. I filed a *pro hac vice* application for this case. I make this declaration pursuant to CivLR
5 7.1(f)(2)(a) in support of the Senco's Motion to Stay Pending Outcome of Reexamination Proceedings.
6 Unless otherwise noted, the statements made herein are of my own first-hand knowledge, and if called
7 upon to testify thereof I could and would do so competently.

8 2. Attached hereto as Exhibit 1 is a true and correct copy of the PTO-stamped transmittal
9 for the Request for Reexamination, dated July 30, 2007.

10 3. Attached hereto as Exhibit 2 is a true and correct copy of the Order Granting Ex Parte
11 Reexamination, mailed October 11, 2007.

12 4. Attached hereto as Exhibit 3 is a true and correct copy of the Order Granting Ex Parte
13 Reexamination, mailed February 21, 2008.

14 5. Attached hereto as Exhibit 4 is a true and correct copy of the Order Granting in Part and
15 Denying in Part Defendants' Motion to Stay, dated September 10, 2007 in the case of *Sorensen v. Black*
16 *& Decker Corp., et al.*, U. S. District Court, Southern District of California, Case No. 06cv1572 BTM
17 (CAB).

18 6. Attached hereto as Exhibit 5 is a true and correct copy of a Letter from Robert S. Mallin
19 to Melody A. Kramer, dated March 12, 2008.

20 7. Attached hereto as Exhibit 6 is a true and correct copy of a Letter from Melody A.
21 Kramer to Robert S. Mallin, dated March 12, 2008.

22 8. Attached hereto as Exhibit 7 is a true and correct copy of the Ex Parte Reexamination
23 Filing Data - June 30, 2006, of the U. S. Patent and Trademark Office.

24 9. Attached hereto as Exhibit 8 is a true and correct copy of an excerpt from the Manual of
25 Patent Examining Procedure, § 2250(III), page 2200-74 dated August 2006, available at
26 http://www.uspto.gov/web/offices/pac/mpep/documents/2200_2250.htm#sect2250.
27
28

1 I declare under penalty of perjury that the foregoing is true and correct. Executed this 24th day
2 of March, 2008 in Chicago, Illinois.
3
4

5 BRINKS HOFER GILSON & LIONE

6
7 By: /s/ Robert S. Mallin

8 Robert S. Mallin
9 Attorney for Defendants
10 Email: rsm@usebrinks.com

11 455 N. Cityfront Plaza
12 Suite 3600
13 Chicago, IL 60611
14 Telephone: (312) 321-4221
15 Facsimile: (312) 321-4299
16
17
18
19
20
21
22
23
24
25
26
27
28